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TRADEMARE	Application Number	10/057,629
TRANSMITTAL	Filing Date	January 25, 2002
FORM	First Named Inventor	Harry R. Davis et al.
•	Art Unit	1617
(to be used for all correspondence after initial filing)	Examiner Name	San-Ming R. Hui
Total Number of Pages in This Submission 1	Attorney Docket Number	CV01382K US (4686-045584)

**ENCLOSURES** 

Fee Transmittal F	orm		Drawing(s)			fter Allowance Communication TC
X Fee Attache	ed		Licensing-related F	Papers		ppeal Communication to Board  Appeals and Interferences
X Amendment / Rep	oly		Petition		A	ppeal Communication to TC ppeal Notice, Brief, Reply Brief)
After Final			Petition to Convert Provisional Applic		P:	roprietary Information
Affidavits/o	declaration(s)		Power of Attorney, Change of Corresp Address		S	tatus Letter
Extension of Time	e Request		Terminal Disclaim	er		ther Enclosure(s) (please lentify below):
Express Abandon	ment Request		Request for Refund	i		mail certificate; Transmittal
Information Discl	losure Statement		CD, Number of CI	O(s)		whibits A-E; Check in the of \$200.00; and Return receipt
		, [	Landscape Ta	ble on CD	postcard	
Certified Copy of Document(s)	Priority	Remark	as J		- <del>-</del>	-
Response to Miss Incomplete Appli						
	o Missing Parts					
Under 37 C	CFR 1.52 or 1.53					
	SIGNAT	URE OF	APPLICANT, AT	TORNEY. O	R AGENT	•
P: 31				7012.27,0		
Firm Name	The Webb Law F	ırm				
Signature	0					
Printed Name	Ann M. Cannoni					
Date	August 30, 2007			Reg. No.	35,972	
	CER	TIFICA	TE OF TRANSMI	SSION / MA	ILING	
I hereby certify that this with sufficient postage a 22313-1450 on the date s	correspondence is b	eing facsi	mile transmitted to t	he USPTO or o	leposited w	ith the United States Postal Service b, P.O. Box 1450, Alexandria, VA
Signature	Hely	va 1	4. hlyke			<b>—</b>
Typed or printed nam	e Melissa A. V	Wvke	•		Date	August 30, 2007

This collection of information is required by 37 CFR 1.5 the information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NO SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Paper Dated: August 30, 2007

Attorney Docket No. CV01382K US (4686-045584)

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.

10/057,629

**Applicants** 

Harry R. Davis et al.

Filed

January 25, 2002

Title

Use of Substituted Azetidinone Compounds for the Treatment

of Sitosterolemia

Art Unit

1617

Confirmation No. :

2175

Examiner

San-Ming R. Hui

Customer No.

28289

**Mail Stop Petition Commissioner for Patents** PO Box 1450 Alexandria, VA 22313-1450

### REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F. R. §1.705(b)

Applicants respectfully request reconsideration of the patent term adjustment determination for U.S. Patent Application No. 10/057,629. A Notice of Allowance was mailed on June 25, 2007 for this application. This request is being timely filed before payment of the issue fee for the application pursuant to 37 C.F. R. §1.705(b). A check in the amount of \$200.00 to cover the cost of the fee for application for patent term adjustment is enclosed herewith. Any deficiency or overpayment should be charged or credited to deposit account number 23-0650.

> I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 30, 2007. Melissa A. Wyke (Name of Person Mailing Paper) 08/30/2007

09/04/2007 SFELEKE2 00000010 10057629

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Request for Reconsideration of Patent Term Adjustment

Under 37 C.F.R. §1.705(d)

P

U.S. Patent Application No. 10/057,629

Paper Dated: August 30, 2007

Attorney Docket No. CV01382K US (4686-045584)

I. Statement of the Facts

A Notice of Allowance was mailed on June 25, 2007 for U.S. Patent Application No.

10/057,629 (hereinafter the '629 Application). The accompanying Determination of Patent Term

Adjustment under 35 U.S.C. §154(b) specifies that the patent term adjustment is 612 days,

subject to any disclaimer.

A. Correct Patent Term Adjustment

Applicants respectfully request that this determination of the patent term adjustment be

reconsidered and revised. Applicants have analyzed the prosecution history of the '629

Application and respectfully assert that the correct patent term adjustment should be 921 days,

not 612 days.

To facilitate review of the patent term adjustment, Applicants have attached a copy of a

printout of a computerized summary of the prosecution history of the '629 Application compiled

using the Patent Term Online software as Exhibit A. Exhibit A is a list of events that occurred

during the prosecution of the '629 Application.

Also, Applicants have attached (as Exhibit B) a copy of an annotated printout of each of

the prosecution history events listed in Exhibit A. Exhibit B sets forth the date and name of each

event, a convenient summary of the U.S. Patent Office rule under which the significance of the

event was analyzed with respect to patent term adjustment ("Rule Invoked"), and the date and

name of the subsequent related event which concludes the analysis under the pertinent rule

("Related Event"). This analysis was conducted using the Patent Term Online software.

For convenience in the discussion to follow, Applicants have attached (as Exhibit C) a

copy of an AIPA Term Calculation Report which provides a summary of the patent term

adjustment analysis and sets forth the relevant events of the prosecution history and analysis of

each relevant event with respect to excluded days, debit days and credit days. The AIPA Term

Calculation Calendar (attached as Exhibit D) provides a day-by-day review of the relevant events

Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d) U.S. Patent Application No. 10/057,629 Paper Dated: August 30, 2007

Attorney Docket No. CV01382K US (4686-045584)

included in Exhibit C. The U.S. Patent Office's Patent Term Adjustment History is attached as Exhibit E for convenience.

### II. **Analysis**

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Applicants will now discuss and analyze each of the pertinent events of the prosecution history to show the basis for Applicants' assertion that the correct patent term adjustment should be 921 days, making reference to Exhibit C. For events in which Applicants' determination agrees with the U.S. Patent Office determination, reference is made to Exhibit C and further detailed discussion is omitted.

### A. Bases Under §§1.702 and 1.703 for Adjustment

The '629 Application was filed on January 25, 2002. See Exhibit C, page 2. The projected issue date of the application is January 1, 2008 (the Tuesday before the date that is 28 weeks after the mailing date of the Notice of Determination of Patent Term Adjustment (June 25, 2007)). See Exhibit C, page 2. Under 37 C.F.R. §1.702(b), the U.S. Patent Office must issue a patent within three years after the filing date of the application. The period of adjustment under 37 C.F.R. §1.703(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed and ending on the date that the application is projected to issue (total 409 days). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment shall not exceed the actual number of days that the issuance of the patent was delayed. There were 99 days credited for adjustment under 37 C.F.R. §1.702(a)(1), which is the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed and ending on the date of the mailing of the Restriction Requirement dated July 2, 2003. Thus, the actual delay was 409 days minus 99 days, which equals 310 days. See Exhibit C, pages 2 and 7-8.

Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)
U.S. Patent Application No. 10/057,629

Paper Dated: August 30, 2007

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Attorney Docket No. CV01382K US (4686-045584)

### B. Bases Under §1.704 for Adjustment

On May 10, 2005, Applicants filed an Information Disclosure Statement. See Exhibit C, page 6. The Information Disclosure Statement was not expressly requested by the Examiner and was filed after the Notice of Appeal filed on May 9, 2005. Under 37 C.F.R. §1.704(c)(8), Applicants' period of adjustment (credits) is reduced for the period beginning on the day after the date that the initial reply was filed (May 9, 2005) and ending on the date that the Information Disclosure Statement was filed (May 10, 2005). Thus, Applicants' period of adjustment (credits) is **reduced by one (1) day** for this event.

### C. Terminal Disclaimer

The '629 Application is not subject to any terminal disclaimer.

### III. Period of adjustment determined according to 37 C.F.R. §1.703(f)

According to 37 C.F.R. §1.703(f), the period of adjustment shall be the sum of the periods calculated under 37 C.F.R. §1.703(a) through (e), to the extent that such periods are not overlapping, less the sum of the periods calculated under 37 C.F.R. §1.704. The sum of the periods calculated under 37 C.F.R. §1.703(a) through (e) is equal to 1071 days. The sum of the periods calculated under 37 C.F.R. §1.704 is equal to 150 days. The net patent term adjustment under 37 C.F.R. §1.703(f) is equal to 1071 days minus 150 days, i.e., **921 days**.

Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)
U.S. Patent Application No. 10/057,629
Paper Dated: August 30, 2007
Attorney Docket No. CV01382K US (4686-045584)

Accordingly, Applicants respectfully request that the patent term adjustment be reconsidered and corrected to be 921 days.

Respectfully submitted,

THE WEBB LAW FIRM, P.C.

Date: August 30, 2007

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Pittsburgh, PA 15219-1818 Telephone: (412) 471-8815 Facsimile: (412) 471-4094

E-mail: webblaw@webblaw.com



### PATENT APPLICATION NO: 10/057,629

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	ATTORNEY'S DOCKET NUMBER
Harry R. Davis et al.	CV01382K US (4686-045584)
	TUTED AZETIDINONE COMPOUNDS ATMENT OF SITOSTEROLEMIA"
Mail Stop Petition Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450 EXPR	ESS MAIL CERTIFICATE
"Express Mail" Label Number	EL 881092117 US
Date of Deposit	
I hereby certify that the following a  • Transmittal form (1 p.);	
<ul> <li>Exhibits A-E;</li> <li>Check in the amount of \$200.00 (</li> <li>Return receipt postcard.</li> </ul>	
service under 37 C.F.R. §1.10 on the	tates Postal Service "Express Mail Post Office to Addressee" e date indicated above and is addressed to Mail Stop Petition, Box 1450, Alexandria, VA 22313-1450.
· 	Melissa A. Wyke  (Typed name of person mailing paper or fee)
<del></del>	(Signature of person mailing paper or fee)

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**EXHIBIT A** 

PROSECUTION HISTORY APPLICATIONS PROFESSOR KANTON'S

Datemeterm

ON N

APPLY TERM RULES

TEAM ANALYSIS

Dock	et Numb	Docket Number: CV01382K US	
	Line	Date (mm/dd/yyyy)	Event Title
0	1	01/25/2002	Earliest Referenced Application under 35 USC 120, 121, or 365(c)
O	2	01/25/2002	Filing Date under 35 USC 111(a) (US National Application)
			Information Disclosure Statement
0	е	08/21/2002	Comments: IDSs electronically filed: EFS 17233 and 17262
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Information Disclosure Statement
0	4	08/23/2002	Comments: IDSs electronically filed: EFS 17325; 17349; 17350; 17351
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Information Disclosure Statement
0	5	01/13/2003	Còmments: IDS mailed 1/8/03; rec'd 1/13/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Information Disclosure Statement
0	9	04/14/2003	Comments: IDS mailed 4/4/03; rec'd 4/14/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Information Disclosure Statement
0	7	05/05/2003	Comments: IDS mailed 4/28/03; rec'd 5/5/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Information Disclosure Statement
0	œ	05/16/2003	Comments: IDS mailed 5/14/03; rec'd 5/16/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".

			Information Disclosure Statement
0	6	06/09/2003	Comments: IDS mailed 6/5/03; rec'd 6/9/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
C	10	2002/20/20	Restriction / Election-of-Species
)		01/05/2003	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Requirement for Restriction / Election".
			Response to Election-of-Species / Restriction Filed
0	11	08/04/2003	Comments: mailed 8/1/03; rec'd 8/4/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response to Election / Restriction Filed".
C	1,	10/31/2003	Notice of Informal or Non-Responsive Amendment
)		10/21/2003	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Mail Notice of Informal or Non-Responsive Amendment".
			Information Disclosure Statement
0	13	10/31/2003	Comments: IDS mailed 10/28/03; rec'd 10/31/03
_			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Response to Election-of-Species / Restriction Filed
O	14	11/21/2003	Comments: mailed 11/18/03; rec'd 11/21/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response to Election / Restriction Filed".
			Information Disclosure Statement
0	15	12/01/2003	Comments: IDS mailed 11/26/03; rec'd 12/01/03
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
C	16	03/15/2004	Non-final Action
		+002/CT/CO	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Non-Final Rejection".
C	17	02/14/2004	Affidavit(s), Declaration(s), or Exhibit(s) Received
)		07/14/2004	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received".
	ά	02/14/3004	Reply after Non-final Action under 37 CFR 1.111
)		1002/11/0	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response after Non-Final Action".
•		70000	Non-final Action
)	19	10/20/2004	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Non-Final Rejection".
L	_		

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			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Miscellaneous Communication to Applicant - No Action Count".
			Information Disclosure Statement
0	32	09/29/2006	Comments: IDS mailed 9/22/06; rec'd 9/29/06
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
			Final Decision by Board of Patent Appeals and Interferences
0	33	03/01/2007	Comments: PAIR indicates decision mailed on 3/1/07, however document indicates it was mailed on 2/28/07. Spoke to paralegal at Board who said it was mailed on 3/1/07.
			Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "BPAI Decision - Examiner Reversed".
C	3.4	2002/56/90	Notice of Allowance under 35 USC 151
)		00/20/2001	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Mail Notice of Allowance".
0	35	09/25/2007	Issue Fee Payment under 35 USC 151
0	36	01/01/2008	Issue Date [ ! ] Estimated event date. When the actual date is known, select this event, update the date (if it changed), and then click Save to remove this warning.
		New	4444 CLICK to add a new history event



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EXHIBIT B

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TERM ANALYSIS

APPLY TERM RULES

PROSECUTION HISTORY APPLICATIONS PROFESSOR MATTON'S COUNTY COUNTY OF NATIONAL PROFESSOR MATTON'S COUNTY OF NATIONAL PROFESSOR MATTON OF

Dock	et Numbe	Docket Number: CV01382K US	Sr		
	Line Item	Date 🚹	Event	Rule Invoked	Related Event
O	Ħ	01/25/2002	Earliest Referenced Application under 35 USC 120, 121, or 365(c)	-	
				14-Month PTO First Action	
				PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	Select First PTO Action: 10. Restriction / Election-of- Species
				[ I] The PTO interprets this rule as requiring that a notification be mailed. See 37 CFR 1.702 (a)(1). Therefore, if this is an oral restriction requirement, it may not be the correct first PTO action.	
0	2	01/25/2002	Filing Date under 35 USC 111	3-Year PTO Issue of Patent	·
				PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).	Select Issue Date: 36. Issue Date
				V  PTO Exclusion Interpretation	
				V 37 CFR § 1.703(f) "Actual Delay" Limitation	
				☐ Do Not Analyze this Rule	:
			Information Disclosure Statement		

	:	:	<b>:</b>	:
Comments: IDSs electronically filed: EFS 17233 and 17262 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Information Disclosure Statement Comments: IDSs electronically filed: EFS 17325; 17349; 17350; 17351 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Information Disclosure Statement Comments: IDS mailed 1/8/03; rec'd 1/13/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Information Disclosure Statement Comments: IDS mailed 4/4/03; rec'd 4/14/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Information Disclosure Statement Comments: IDS mailed 4/28/03; rec'd 5/5/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
08/21/2002	08/23/2002	01/13/2003	04/14/2003	05/05/2003
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Statement Comments: IDS mailed Statement Comments: IDS mailed 5/14/03; rec'd 5/16/03 19:39 AM. Original PAIR entry Was "Information Disclosure Statement (IDS) Filed". Information Disclosure Statement Comments: IDS mailed 6/5/03; rec'd 6/9/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry Was "Information Disclosure Species 10 07/02/2003 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry Was "Requirement for Restriction / Election". Election".  Response to Election-of- Species / Restriction Filed Comments: mailed 8/1/03; 11 08/04/2003 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry Was "Response to Election-of- Species / Restriction Filed Comments: mailed 8/1/03; 11 08/04/2003 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry Was "Response to Election / Restriction Filed".			Select Applicant Response: 14. Response to Election-of- Species / Restriction Filed	Select Reply/Other Paper Correcting Omission: 14. Response to Election-of- Species / Restriction Filed
9 06/09/2003	;		3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	Reply Having Omission  Period of adjustment (credits) shall be reduced where applicant submits a reply having an omission (37 CFR 1.135(c)), for the period beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. 37 CFR 1.704(c)(7).  The USPTO interprets this rule as not limited to Office actions under 37 CFR 1.135 (c), but it applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected. See MPEP 2732 at 2700-20 (8th ed., rev. 2, May 2004).  [1] Carefully check that any associated PTO Notices or Actions (and associated applicant responses) have the proper rule assignments and closing events. This is a common source of
8 6 01 11	Information Disclosure Statement Comments: IDS mailed 5/14/03; rec'd 5/16/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Information Disclosure Statement Comments: IDS mailed 6/5/03; rec'd 6/9/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Restriction / Election-of- Species Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Requirement for Restriction / Election".	Response to Election-of-Species / Restriction Filed Comments: mailed 8/1/03; rec'd 8/4/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response to Election / Restriction Filed".
	05/16/2003	06/09/2003	07/02/2003	08/04/2003
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	O	0	O	0

				PTA error.
0	12	10/21/2003	Notice of Informal or Non-Responsive Amendment Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Mail Notice of Informal or Non-Responsive Amendment".	3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.705(c).  Where applicant shows, in spite of all due care, applicant was unable to response to within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).  Restriction Filed  [1] Carefully check that any associated PTO Notices or Actions (and associated applicant responses) have the proper rule assignments and closing events. This is a common source of PTA error.
0	13	10/31/2003	Information Disclosure Statement Comments: IDS mailed 10/28/03; rec'd 10/31/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (1DS) Filed".	
0	14	11/21/2003	Response to Election-of-Species / Restriction Filed Comments: mailed 11/18/03; rec'd 11/21/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response to Election / Restriction Filed".	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).  [1] Where the PTO is not required to respond to this response, application of this rule is consistent with how you would like this case to be analyzed.
			Information Disclosure	Supplemental Reply or Other Paper (IDS)  Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such

			Statement	paper was filed. <u>37 CFR 1,704(c)(8)</u> .	
	15	12/01/2003	Comments: IDS mailed 11/26/03; rec'd 12/01/03 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).  L. 1.704(d) IDS Statement Included  [!] Carefully check this IDS to determine if a statement under 37 CFR 1.704(d) is included. Indicate this using the checkbox above.	Select Initial Reply: 14. Response to Election-of- Species / Restriction Filed
O	16	03/15/2004	Non-final Action Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Non-Final Rejection".	<b>3-Month Applicant Response to Notice or Action</b> Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	Select Applicant Response: 18. Reply after Non-final Action
O	17	07/14/2004	Affidavit(s), Declaration(s), or Exhibit(s) Received Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received".	•	
O	18	07/14/2004	Reply after Non-final Action under 37 CFR 1.111 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Response after Non-Final Action".	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever an action under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).	Select PTO Response: 19. Non-final Action
	<del>, , , , ,</del>			3-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection,	

Select Applicant Response: 20. Reply after Non-final Action	Select PTO Response: 21. Final Rejection	Select Applicant Response: 24. Notice of Appeal to BPAI	
argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	<b>4-Month PTO Response to Applicant Reply</b> PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).	3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	
Non-final Action Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Non-Final Rejection".	Reply after Non-final Action under 37 CFR 1.111 Comments: mailed 11/15/04; rec'd 11/17/04 Imported from PAIR on 7/6/2007 9:19:39 Am. Original PAIR entry was "Response after Non-Final Action".	Final Rejection Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Final Rejection".	Information Disclosure Statement Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
10/20/2004	11/17/2004	02/08/2005	04/08/2005
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	Select Responsive Event: 33. Final BPAI Decision	Select Final Appellate Decision: 33. Final BPAI Decision	Select Initial Reply: 24. Notice of Appeal to BPAI
 Exclusion for Appellate Review	3-Year PTO Issue Requirement does not include the period of appellate review by the BPAI or a Federal court, beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of the last decision by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the BPAI. 35 USC 154(b)(1) (B)(ii); 37 CFR 1.702(b)(4), 1.703(b)(4).	Credit for Successful Appellate Review  Term of an original patent shall be adjusted (credits) for the period beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of a final decision in favor of the applicant by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145. 35 USC 154(b)(1)(C)(iii); 37 CFR 1.702(e), 1.703(e).  Is Patent Issued under Appeal Decision Reversing an Adverse Determination of Patentability  [1] Carefully check to determine whether this appeal was successful (patent was issued under an appeal decision reversing an adverse determination of patentability) as required under 35 USC 154(b)(1)(C)(iii), 37 CFR 1.702(e), 37 CFR 1.703(e), and other relevant authority. If this appeal was not successful by unchecking the box above.	Supplemental Reply or Other Paper (IDS)  Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(C)(8).  A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).
Amendment after Final Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Amendment after Final Rejection".	Notice of Appeal to Board of	Patent Appeal and Interferences Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Notice of Appeal Filed".	Information Disclosure Statement Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".
04/08/2005		05/09/2005	05/10/2005
. 23		24	25
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			Select PTO Response to Appeal Brief: 29. Examiner's e Answer to Appeal								
[ ! ] Carefully check this IDS to determine if a statement under 37 CFR 1.704(d) is included. Indicate this using the checkbox above.	-	4-Month PTO Response to Appeal Brief	PTO must respond to an appeal taken under 35 USC 134 not later than 4 months after the date on which the appeal was taken. The period of adjustment (credits) begins on the day after the date that is 4 months after the date an appeal brief in compliance with 37 CFR 41.37 was filed and ending on the date of mailing of any of an examiner's answer under 37 CFR 41.39, an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(4).		•			•		•	
	Advisory Action after Final Rejection Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Advisory Action (PTOL-303)".		Appeal Brief by Applicant Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Appeal Brief Filed".	Miscellaneous PTO Communication to Applicant	Comments: IDSs of 12/1/03 and 10/31/03 were considered	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Miscellaneous Communication to Applicant - No Action Count".	Examiner's Answer to Appeal Brief	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Examiner's Answer to Appeal Brief".	Miscellaneous PTO Action or Notice	Comments: Order Returning Undocketed Appeal to Examiner to consider declaration	Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Order Returning Undocketed Appeal to the Examiner".
	05/20/2005		06/06/2005		08/16/2005			08/30/2005		05/03/2006	
	26		27		28			29		30	
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		Select PTO Reponse to Decision: 34. Notice of Allowance	Select Applicant Response: 35. Issue Fee Payment
•	-	<b>4-Month PTO Response to Appellate Decision</b> PTO must act on an application not later than 4 months after the date of a decision by the BPAI under 35 USC 134 or 135 or a decision by a Federal court under 35 USC 141, 145, or 146 where at least one allowable claim remains in the application. The period of adjustment (credits) begins on the day after the date that is 4 months after the date of the final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145 or 146 and ending on the date of mailing of either an action under 35 USC 132 or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 132 or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b) (1)(A)(iii); 37 CFR 1.702(a)(3), 1.703(a)(5).	<b>3-Month Applicant Response to Notice or Action</b> Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).
Miscellaneous PTO Communication to Applicant Comments: Comm from Examiner: Declaration had been considered Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Miscellaneous Communication to Applicant - No Action Count".	Information Disclosure Statement Comments: IDS mailed 9/22/06; rec'd 9/29/06 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Information Disclosure Statement (IDS) Filed".	Final Decision by Board of Patent Appeals and Interferences  Comments: PAIR indicates decision mailed on 3/1/07, however document indicates it was mailed on 2/28/07. Spoke to paralegal at Board who said it was mailed on 3/1/07.  Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "BPAI Decision - Examiner Reversed".	Notice of Allowance under 35 USC 151 Imported from PAIR on 7/6/2007 9:19:39 AM. Original PAIR entry was "Mail Notice of Allowance".
08/10/2006	09/29/2006	03/01/2007	06/25/2007
31	32	33	34
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				1.705(c) Showing of Due Care	
				4-Month PTO Issue of Patent	
O	35	09/25/2007	Issue Fee Payment under 35 USC 151	PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).	Select Issue Date: 36. Issue Date
0	36	01/01/2008	Issue Date [ ! ] Estimated event date. When the actual date is known, select this event, update the date (if it changed), and then click Save to remove this warning.		

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## AIPA Term Calculation Report

	APPLICATION	APPLICATION INFORMATION	
Docket Number:	CV01382K US	User Name:	Cannoni, Ann
Application Number:	10/057,629	Firm/Company Name:	Webb Law Firm
Filing Date:	01/25/2002	User Comments:	
Title/Inventor(s):		Calculation Generated:	07/06/2007 02:10:20 PM ET

AIDA(1	AIPA TERM CALCULATION SUMMARY
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	01 / 25 / 2002
Filing Date (US National Application):	01 / 25 / 2002
Net Adjustment Credits:	1071 Days
Net Adjustment Debits:	150 Days
Patent Term Adjustment:	921 Days
AIPA Patent Term End Date:	
(1) Assumes payment of all maintenance fees, no intervening acts, and no 35 learlier term end date. Without adjustment, the term would end on 01/25/2022.	(1) Assumes payment of all maintenance fees, no intervening acts, and no 35 USC 156 regulatory extensions. Terminal disclaimer(s) filed in this case, if any, may result in an earlier term end date. Without adjustment, the term would end on 01/25/2022.

COMPARISON TO USPTO PAIR PTA TAB (2)  (Based on PAIR Data from 07/06/2007)  Your Calculation	761 × 1071	149 ×	612 × 921 ×	The control of the co
COMPAR (Base	Credit Days (USPTO Delay):	Debit Days (Applicant Delay):	Total Patent Term Adjustment Days:	

<sup>(2)</sup> Comparison is shown for USPTO Delay, Applicant Delay, and Total Patent Term Adjustment fields displayed on USPTO PAIR Patent Term Adjustments (PTA) tab on 07/06/2007. See the full PAIR PTA tab, file wrapper (e.g., Notice of Allowance, PTA-related petitions), and issued patent for complete information on USPTO-calculated PTA.

	RULE CALCULATION SUMMARY (3)				*
Event	Rule Invoked	Related Event	Exclusion Days (4)	Debit Days (5)	Credit Days (6)
01/25/2002 Filing Date under 35 USC 111(a) (US National Application)	PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	First PTO Action: 07/02/2003 Restriction / Election-of-Species			66
01/25/2002 Filing Date under 35 USC 111(a) (US National Application)	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).  You have elected to analyze this rule under the PTO Exclusion Interpretation.  You have elected to analyze this rule under the 37 CFR § 1.703(f) Actual Delay Limitation. Credit Days shown for this rule are those remaining after the Actual Delay Limitation is applied. See calculation details below. If you are viewing an AIPA Term Calculation Calendar, note that the calendar months show marks for all credits under this rule, even those eliminated under this election.	Issue Date: 01/01/2008 Issue Date			310
07/02/2003 Restriction / Election-of-Species	3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	Applicant Response: 11/21/2003 Response to Election-of-Species / Restriction Filed		20	

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Reply/Other Paper Correcting Omission: 11/21/2003 Response to Election-of-Species / Restriction Filed Applicant Response: 11/21/2003 Response to Election-of-Species / Response to Response to Election-of-Species /	PTO Response: 03/15/2004 Non-final Action
Reply Having Omission  Period of adjustment (credits) shall be reduced where applicant submits a reply having an omission (37 CFR 1.135(c)), for the period beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed and ending on the date that the reply or other paper correcting the omission was filed. 37 CFR 1.704(c)(7).  The USPTO interprets this rule as not limited to Office actions under 37 CFR 1.135(c), but it applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected. See MPEP 2732 at 2700-20 (8th ed., rev. 2, May 2004).  3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.705(c).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).
08/04/2003 Response to Election-of-Species / Restriction Filed  10/21/2003 Notice of Informal or Non-Responsive Amendment	11/21/2003 Response to Election-of-Species / Restriction Filed
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		Supplemental Reply or Other Paper (IDS)			
	000/10/61	Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(c)(8).	Initial Reply:		
Ö	Information Information Disclosure Statement	A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).	Response to Election-of-Species / Restriction Filed	10	
		You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.			
		3-Month Applicant Response to Notice or Action			
=	03/15/2004 Non-final Action	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Applicant Response: 07/14/2004 Reply after Non-final Action under 37 CFR	29	
		Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).			
		You have indicated that no 1.705(c) Showing of Due Care was made.			
		4-Month PTO Response to Applicant Reply			
-	07/14/2004 Reply after Non-final Action under 37 CFR 1.111	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2),	PTO Response: 10/20/2004 Non-final Action		0
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Applicant Response: 11/17/2004 Reply after Non-final Action under 37 CFR 1.111	PTO Response: 02/08/2005 Final Rejection	Pinal Rejection  Applicant Response: 05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences Interferences 03/01/2007 Final Decision by Board of Patent		
3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2), (3).	3-Month Applicant Response to Notice or Action  Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).  Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	3-Year PTO Issue Requirement does not include the period of appellate review by the BPAI or a Federal court, beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of the last decision by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the BPAI. 35 USC 154(b)(1)(B)(ii); 37 CFR 1.702(b)(4), 1.703(b)(4).	
10/20/2004 Non-final Action	11/17/2004 Reply after Non-final Action under 37 CFR 1.111	02/08/2005 Final Rejection	05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences	
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Decision: 03/01/2007 Final Decision by Board of Patent Appeals and Interferences	Initial Reply: 05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences	PTO Response to Appeal Brief: 08/30/2005 Examiner's Answer to Appeal Brief PTO Reponse to Decision: 06/25/2007 Notice of Allowance under 35 USC 151	
Term of an original patent shall be adjusted (credits) for the period beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of a final decision in favor of the applicant by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145.35 USC 154(b)(1)(C)(iii); 37 CFR 1.702(e), 1.703(e).  You have indicated the patent issued under an appeal decision reversing an adverse determination of patentability.	Supplemental Reply or Other Paper (IDS)  Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(c)(8).  A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).  You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.	4-Month PTO Response to Appeal Brief  PTO must respond to an appeal taken under 35 USC 134 not later than 4 months after the date on which the appeal was taken. The period of adjustment (credits) begins on the day after the date that is 4 months after the date an appeal brief in compliance with 37 CFR 41.37 was filed and ending on the date of mailing of any of an examiner's answer under 37 CFR 41.39, an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 152, or a 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(4).  4-Month PTO Response to Appellate Decision  4-Month PTO Response to Appellate Decision by a Federal court under 35 USC 141, 145, or 146 where at least one allowable claim remains in the application. The period of adjustment (credits) begins on the day after the date that is 4 months after the date of the final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 125 or 146 and ending on the date of mailing of either an action under 35 USC 132 or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(iii); 37 CFR 1.702(a)(3), 1.703(a)(5).	You have indicated allowable claim(s) remain in the application.
05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences	05/10/2005 Information Disclosure Statement	06/06/2005 Appeal Brief by Applicant 03/01/2007 Final Decision by Board of Patent Appeals and Interferences	
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Final Appellate Decision:

Credit for Successful Appellate Review

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		3-Month Applicant Response to Notice or Action				
~	06/25/2007 Notice of Allowance under 35 USC 151	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(c)(ii); 37 CFR 1.704(b).	Applicant Response: 09/25/2007 Issue Fee Payment under 35 USC 151		0	
		Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).				
		You have indicated that no 1.705(c) Showing of Due Care was made.				
		4-Month PTO Issue of Patent				
S	09/25/2007 Issue Fee Payment	PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months	lssue Date: 01/01/2008			0
	under 35 USC 151	after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).	Issue Date			
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(3) Calculations of Debit, Credit, and Exclusion Days are determined by the rule assignments, assignments of related events, and analysis options in the Apply Term Rules tab. The patent professional using this system is responsible for reviewing and updating the Apply Term Rules tab to ensure all data is complete, correct, and consistent with their judgment and interpretation of applicable legal authority.

(4) Exclusion Days are periods which are not included in determining the end of the 3-year period after the date on which the application was filed under 35 USC 111(a), or the national stage commenced under 35 USC 371(b) or (f) in an international application, used to determine credits under the 3-Year PTO Issue of Patent rule. See 35 USC

154(b)(1)(B)(i)-(iii); 37 CFR 1.702(b)(1)-(5), 1.703(b)(1)-(4).

(5) Debit Days are days where grounds for reduction of period of adjustment of patent term exist. See, e.g., 37 CFR 1.704. Debit Days are sometimes referred to as Applicant Delay.

(6) Credit Days are days where grounds for adjustment of patent term exist. See, e.g., 37 CFR 1.702, 1.703. Credit Days are sometimes referred to as USPTO Delay. (7) To the extent credit periods overlap other credit periods, debit periods overlap other debit periods, or exclusion periods overlap other exclusion periods, overlaps are subtracted so that each calendar day generates at most one credit day, one debit day, and one exclusion day.

(8) Patent Term Adjustment Days equals Net Credit Days minus Net Debit Days, but is not less than zero.

# 37 CFR § 1:703(f) "ACTUAL DELAY" LIMITATION CALCULATION

Credit Days

Number of days issue of patent exceeded 3 years after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application, not including exclusion days (4):	409	
Number of Net Credit Days (6) from all rules other than 3-Year PTO Issue of Patent rule, not including Credit Days on exclusion days (4):	66	
Remaining Credit Days generated under 3-Year PTO Issue of Patent rule, after 37 CFR 1.703(f) Actual Delay Limitation:	310	

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## AIPA Term Calculation Calendar

	APPLICATION INFORMATION	INFORMATION 💨 🙀	
Docket Number:	CV01382K US	User Name:	Cannoni, Ann
Application Number:	10/057,629	Firm/Company Name:	Webb Law Firm
Filing Date:	01/25/2002	User Comments:	
Title/Inventor(s):		Calculation Generated:	07/06/2007 02:11:14 PM ET

APATE	AIPA TERM CALCULATION SUMMARY
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	01/25/2002
Filing Date (US National Application):	01/25/2002
Net Adjustment Credits:	1071 Days
Net Adjustment Debits:	150 Days
Patent Term Adjustment:	921 Days
AIPA Patent Term End Date:	08 / 03 / 2024 (1)
(1) Assumes payment of all maintenance fees, no intervening acts, and no 35 earlier term end date. Without adjustment, the term would end on 01/25/2022.	(1) Assumes payment of all maintenance fees, no intervening acts, and no 35 USC 156 regulatory extensions. Terminal disclaimer(s) filed in this case, if any, may result in an earlier term end date. Without adjustment, the term would end on 01/25/2022.

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(в) (в)		Credit Days (USPTO Delay):	Debit Days (Applicant Delay):	Total Patent Term Adjustment Days:	E La Cadoli V

<sup>(2)</sup> Comparison is shown for USPTO Delay, Applicant Delay, and Total Patent Term Adjustment fields displayed on USPTO PAIR Patent Term Adjustments (PTA) tab on 07/06/2007. See the full PAIR PTA tab, file wrapper (e.g., Notice of Allowance, PTA-related petitions), and issued patent for complete information on USPTO-calculated PTA.

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10	Event	Rule Invoked	Related Event	Exclusion Days (4)	Debit Days (5)	Credit Days (6)
		14-Month PTO First Action				
Y	01/25/2002 Filing Date under 35 USC 111(a) (US National Application)	PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a)(1).	First PTO Action: 07/02/2003 Restriction / Election-of-Species			66
		3-Year PTO Issue of Patent				
æ	01/25/2002 Filing Date under 35 USC 111(a) (US	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).	Issue Date: 01/01/2008 Issue Date			310
	ivational Application)	You have elected to analyze this rule under the PTO Exclusion Interpretation.				
		You have elected to analyze this rule under the 37 CFR § 1.703(f) Actual Delay Limitation. Credit Days shown for this rule are those remaining after the Actual Delay Limitation is applied. See calculation details below. If you are viewing an AIPA Term Calculation Calendar, note that the calendar months show marks for all credits under this rule, even those eliminated under this election.				
		3-Month Applicant Response to Notice or Action				
ົວ	07/02/2003 Restriction / Election-of-Species	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Applicant Response: 11/21/2003 Response to Election-of-Species /		20	
		Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).				
		You have indicated that no 1.705(c) Showing of Due Care was made.				

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	Reply/Other Paper Correcting Omission: 11/21/2003 Response to Election-of-Species / Restriction Filed			Applicant Response: 11/21/2003 Response to Election-of-Species / Restriction Filed			PTO Response: 03/15/2004 Non-final Action		
Reply Having Omission	Period of adjustment (credits) shall be reduced where applicant submits a reply having an omission (37 CFR 1.135(c)), for the period beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. 37 CFR 1.704(c)(7).	The USPTO interprets this rule as not limited to Office actions under 37 CFR 1.135(c), but it applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected. See MPEP 2732 at 2700-20 (8th ed., rev. 2, May 2004).	3-Month Applicant Response to Notice or Action	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	You have indicated that no 1.705(c) Showing of Due Care was made.	4-Month PTO Response to Applicant Reply	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2),	
	08/04/2003 Response to Election-of-Species / Restriction Filed			10/21/2003 Notice of Informal or Non-Responsive Amendment				11/21/2003 Response to Election-of-Species / Restriction Filed	
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Initial Reply:	11/21/2003 Response to Election-of-Species / Restriction Filed		Applicant Response: 07/14/2004 Reply after Non-final Action under 37 CFR	1.11.1			PTO Response: 10/20/2004 Non-final Action	
Supplemental Reply or Other Paper (IDS)  Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(c)(8).	A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).	You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.	3-Month Applicant Response to Notice or Action	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	You have indicated that no 1.705(c) Showing of Due Care was made.	4-Month PTO Response to Applicant Reply	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2),
	12/01/2003 Information Disclosure Statement		03/15/2004 Non-final Action				07/14/2004 Reply after Non-final Action under 37 CFR 1.111	
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Applicant Response: 11/17/2004 Reply after Non-final Action under 37 CFR 1.111			PTO Response: 02/08/2005 Final Rejection		Applicant Response: 05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences		Responsive Event: 03/01/2007 Final Decision by Board of Patent Appeals and Interferences				
3-Month Applicant Response to Notice or Action	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	You have indicated that no 1.705(c) Showing of Due Care was made.	4-Month PTO Response to Applicant Reply	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2),	3-Month Applicant Response to Notice or Action	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).	You have indicated that no 1.705(c) Showing of Due Care was made.	Exclusion for Appellate Review	3-Year PTO Issue Requirement does not include the period of appellate review by the BPAI or a Federal court, beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of the last decision by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the BPAI. 35 USC 154(b)(1)(B)(ii); 37 CFR 1.702(b)(4), 1.703(b)(4).
10/20/2004 Non-final Action		11/17/2004 Reply after Non-final Action under 37 CFR 1.111		02/08/2005 Final Rejection			05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences				
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Final Appellate Decision: 03/01/2007 Final Decision by Board of Patent Appeals and Interferences	Initial Reply: 05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences	PTO Response to Appeal Brief: 08/30/2005 Examiner's Answer to Appeal Brief	PTO Reponse to Decision: 06/25/2007 Notice of Allowance under 35 USC 151		
Credit for Successful Appellate Review  Term of an original patent shall be adjusted (credits) for the period beginning on the date on which a notice of appeal to the BPAI was filed under 35 USC 134 and 37 CFR 41.31 and ending on the date of a final decision in favor of the applicant by the BPAI or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145. 35 USC 154(b)(1)(C)(iii); 37 CFR 1.702(e), 1.703(e).  You have indicated the patent issued under an appeal decision reversing an adverse determination of patentability.	Supplemental Reply or Other Paper (IDS)  Period of adjustment (credits) shall be reduced where applicant submits a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed, for the period beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. 37 CFR 1.704(c)(8).  A paper containing only an IDS in compliance with 37 CFR 1.97 and 1.98 will not generate a reduction if accompanied by a statement that each item in the IDS was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS. This 30 day period is not extendable. 37 CFR 1.704(d).  You have indicated that no statement under 37 CFR 1.704(d) was included with this IDS.	4-Month PTO Response to Appeal Brief  PTO must respond to an appeal taken under 35 USC 134 not later than 4 months after the date on which the appeal was taken. The period of adjustment (credits) begins on the day after the date that is 4 months after the date an appeal brief in compliance with 37 CFR 41.37 was filed and ending on the date of mailing of any of an examiner's answer under 37 CFR 41.39, an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(4).	4-Month PTO Response to Appellate Decision PTO must act on an application not later than 4 months after the date of a decision by the BPAI under 35 USC 134 or 135 or a decision by a Federal court under 35 USC 141, 145, or 146 where at least one allowable claim remains in the application. The period of adjustment (credits) begins on the day after the date that is 4 months after the date of the final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 USC 141 or a civil action under 35 USC 145 or 146 and ending on the date of mailing of either an action under 35 USC 132 or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(iii); 37 CFR 1.702(a)(3), 1.703(a)(5).		
05/09/2005 Notice of Appeal to Board of Patent Appeal and Interferences	05/10/2005 Information Disclosure Statement	06/06/2005 Appeal Brief by Applicant	03/01/2007 Final Decision by Board of Patent Appeals and Interferences		
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(3) Calculations of Debit, Credit, and Exclusion Days are determined by the rule assignments, assignments of related events, and analysis options in the Apply Term Rules tab. The patent professional using this system is responsible for reviewing and updating the Apply Term Rules tab to ensure all data is complete, correct, and consistent with their udgment and interpretation of applicable legal authority.

Patent Term Adjustment Days (8)

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(4) Exclusion Days are periods which are not included in determining the end of the 3-year period after the date on which the application was filed under 35 USC 111(a), or the national stage commenced under 35 USC 371(b) or (f) in an international application, used to determine credits under the 3-Year PTO Issue of Patent rule. See 35 USC

154(b)(1)(B)(i)-(iii); 37 CFR 1.702(b)(1)-(5), 1.703(b)(1)-(4).

(5) Debit Days are days where grounds for reduction of period of adjustment of patent term exist. See, e.g., 37 CFR 1.704. Debit Days are sometimes referred to as Applicant (6) Credit Days are days where grounds for adjustment of patent term exist. See, e.g., 37 CFR 1.702, 1.703. Credit Days are sometimes referred to as USPTO Delay.

(7) To the extent credit periods overlap other credit periods, debit periods overlap other debit periods, or exclusion periods overlap other exclusion periods, overlaps are subtracted so that each calendar day generates at most one credit day, one debit day, and one exclusion day.

(8) Patent Term Adjustment Days equals Net Credit Days minus Net Debit Days, but is not less than zero.

## 37 CFR § 1.703(f) "ACTUAL DELAY" LIMITATION CALCULATION

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Number of days issue of patent exceeded 3 years after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application, not including exclusion days (4):

Number of Net Credit Days (6) from all rules other than 3-Year PTO Issue of Patent rule, not including Credit Days on exclusion days (4):

Remaining Credit Days generated under 3-Year PTO Issue of Patent rule, after 37 CFR 1.703(f) Actual Delay Limitation:

310

## **EXHIBIT E**

10/057,629	USE OF SUBSTI	08-28- 2007::17:26:18			
Patent Terr	m Adjustments			· · ·	
Patent Term A	Adjustment (PTA) f	or Application Nun	nber: 10/057,629		
Filing or 371(	c) Date:	01-25-2002	USPTO Delay (PTO) D	elay (days):	761
Issue Date of	Patent:	-	Three Years:		-
Pre-Issue Peti	itions (days):	+0	Applicant Delay (APPL	) Delay (days):	149
Post-Issue Pe	titions (days):	+0	Total PTA (days):		612
USPTO Adjust	ment(days):	+0	Explanation Of Calcula	ations	
Patent Tern	n Adjustment I	listory			
Date	Contents Desc	ription		PTO(Days)	APPL(Days)
06-25-2007	Mail Notice of A	lowance			
06-21-2007	Document Verif	cation			
06-13-2007	Notice of Allowa	nce Data Verificat	ion Completed		
06-13-2007	Case Docketed	to Examiner in GA	U		
09-29-2006	Information Dis	closure Statement	considered		
03-01-2007	Mail BPAI Decisi	on on Appeal - Re	versed	662	
02-28-2007	BPAI Decision -	Examiner Reverse	ed	<b>①</b>	
09-29-2006	Information Dis	closure Statement	(IDS) Filed	仓	
09-29-2006	Information Dis	closure Statement	(IDS) Filed	仓	
09-09-2006	Assignment of A	ppeal Number		1	
08-23-2006	Appeal Awaiting	BPAI Docketing	•	1	
08-10-2006	Mail Miscellaneo	us Communication	n to Applicant	企	
08-07-2006	Miscellaneous C Count	ommunication to <i>i</i>	Applicant - No Action	<b>û</b>	
05-03-2006	Order Returning	Undocketed Appe	eal to the Examiner	<b>①</b>	
04-11-2006	Appeal Awaiting	BPAI Docketing		企	
08-30-2005	Mail Examiner's	Answer		企	
08-22-2005	Examiner's Ans	wer to Appeal Brie	f	企	
08-16-2005	Mail Miscellaned	us Communication	n to Applicant	仓	
08-15-2005	Miscellaneous C Count	ommunication to <i>i</i>	Applicant - No Action	<b>û</b>	
06-09-2005	Date Forwarded	to Examiner		<b>1</b>	•
06-06-2005	Appeal Brief File	ed		企	
05-20-2005	Mail Advisory A	ction (PTOL - 303)		Û	
05-18-2005	Advisory Action	(PTOL-303)		仓	
05-10-2005	Information Dis	closure Statement	(IDS) Filed	Û	
05-10-2005	Information Dis	closure Statement	(IDS) Filed	企	
05-09-2005	Notice of Appea	l Filed			1
04-14-2005	Date Forwarded	to Examiner			1
04-08-2005	Amendment aft	er Final Rejection			า
04-08-2005		closure Statement	(IDS) Filed		1
04-08-2005	Information Dis	closure Statement	: (IDS) Filed		11

02-08-2005	Mail Final Rejection (PTOL - 326)		<b>1</b>
02-07-2005	Final Rejection		
11-23-2004	Date Forwarded to Examiner		
11-17-2004	Response after Non-Final Action		
10-20-2004	Mail Non-Final Rejection		
10-18-2004	Non-Final Rejection		
07-14-2004	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
07-14-2004	Oath or Declaration Filed (Including Supplemental)		
08-03-2004	Date Forwarded to Examiner	,	
07-14-2004	Response after Non-Final Action		29
07-14-2004	Request for Extension of Time - Granted		Û
07-14-2004	Workflow incoming petition IFW		Û
07-14-2004	Workflow incoming amendment IFW		. <b>1</b>
03-15-2004	Mail Non-Final Rejection		企
03-03-2004	Non-Final Rejection		
12-01-2003	Reference capture on IDS		
12-01-2003	Information Disclosure Statement (IDS) Filed		10
12-01-2003	Information Disclosure Statement (IDS) Filed		
01-14-2004	Case Docketed to Examiner in GAU		<b>û</b>
12-09-2003	IFW Amended case processing Complete		℩
12-09-2003	Date Forwarded to Examiner		<b>①</b>
11-21-2003	Response to Election / Restriction Filed		109
10-31-2003	Reference capture on IDS		<b>û</b>
10-31-2003	Information Disclosure Statement (IDS) Filed		û
10-31-2003	Information Disclosure Statement (IDS) Filed		<b>①</b>
10-21-2003	Mail Notice of Informal or Non-Responsive Amendment		<b>1</b>
08-13-2003	Date Forwarded to Examiner		<b>û</b>
08-04-2003	Informal or Non-Responsive Amendment after Examiner Action		<b>☆</b>
08-04-2003	Response to Election / Restriction Filed		<b>①</b>
07-02-2003	Mail Restriction Requirement	99	
06-30-2003	Requirement for Restriction / Election	11	
06-09-2003	Information Disclosure Statement (IDS) Filed	û	
06-09-2003	Information Disclosure Statement (IDS) Filed	企	
05-16-2003	Information Disclosure Statement (IDS) Filed	仓	
05-16-2003	Information Disclosure Statement (IDS) Filed	1	
05-05-2003	Information Disclosure Statement (IDS) Filed	<b>1</b>	
05-05-2003	Information Disclosure Statement (IDS) Filed	企	
04-14-2003	Information Disclosure Statement (IDS) Filed	û	
04-14-2003	Information Disclosure Statement (IDS) Filed	û	
01-13-2003	Information Disclosure Statement (IDS) Filed	企	
01-13-2003	Information Disclosure Statement (IDS) Filed	û	
	•		

08-23-2002	Information Disclosure Statement (IDS) Filed	<b>û</b>
08-23-2002	Information Disclosure Statement (IDS) Filed	<b>û</b>
09-04-2002	Case Docketed to Examiner in GAU	<b>û</b>
08-21-2002	Information Disclosure Statement (IDS) Filed	<b>û</b>
08-21-2002	Information Disclosure Statement (IDS) Filed	Û
02-25-2002	Application Dispatched from OIPE	<b>û</b>
02-20-2002	Application Is Now Complete	<b>û</b>
02-06-2002	IFW Scan & PACR Auto Security Review	<b>û</b>
01-25-2002	Initial Exam Team nn	<b>û</b>

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